

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on  
the twenty-fifth day of November, in the year two thousand and eight :  
present,

|                           |   |          |
|---------------------------|---|----------|
| HON. MARGARET H. MARSHALL | ) |          |
|                           | ) |          |
| HON. JOHN M. GREANEY      | ) |          |
|                           | ) |          |
| HON. RODERICK L. IRELAND  | ) |          |
|                           | ) |          |
| HON. FRANCIS X. SPINA     | ) | Justices |
|                           | ) |          |
| HON. JUDITH A. COWIN      | ) |          |
|                           | ) |          |
| HON. ROBERT J. CORDY      | ) |          |
|                           | ) |          |
| HON. MARGOT BOTSFORD      | ) |          |

ORDERED: That the Massachusetts Rules of Civil Procedure adopted by order dated  
July 13, 1973, as amended, to take effect on July 1, 1974, are hereby amended as follows:

Rule 23: By inserting the new Rule 23(e) attached hereto.

The amendments accomplished by this order shall take effect on January 1, 2009.

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| <u>MARGARET H. MARSHALL</u> | ) |          |
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| <u>JOHN M. GREANEY</u>      | ) |          |
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| <u>RODERICK L. IRELAND</u>  | ) |          |
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|                             | ) |          |
| <u>FRANCIS X. SPINA</u>     | ) |          |
|                             | ) | Justices |
|                             | ) |          |
| <u>JUDITH A. COWIN</u>      | ) |          |
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| <u>ROBERT J. CORDY</u>      | ) |          |
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| <u>MARGOT BOTSFORD</u>      | ) |          |

## Massachusetts Rules of Civil Procedure

### Rule 23. Class Actions

(e) Disposition of Residual Funds. (1) "Residual Funds" are funds that remain after the payment of all approved class member claims, expenses, litigation costs, attorneys' fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from suggesting, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order, judgment or approved compromise in a class action certified under this rule that establishes a process for identifying and compensating members of the class may provide for the disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, the residual funds shall be disbursed to one or more nonprofit organizations or foundations (which may include nonprofit organizations that provide legal services to low income persons) which support projects that will benefit the class or similarly situated persons consistent with the objectives and purposes of the underlying causes of action on which relief was based, or to the Massachusetts 10LTA Committee to support activities and programs that promote access to the civil justice system for low income residents of the Commonwealth of Massachusetts.